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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:04
PLR-138463-08

Date:
November 25, 2008

Legend

Target =

Acquiring =

State A =

Business A =

a =

b =

c =

d =

e =

Dear :

This responds to your September 2, 2008 request for rulings on certain federal income tax consequences of a proposed transaction. The information provided in that

request and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

Summary of Facts

Target is a closely held State A corporation that is engaged in Business A. Target has a individual shareholders (the "Shareholders"), each owning an equal amount of the common stock outstanding. Acquiring is a publicly held corporation that has common stock outstanding. Target owns approximately b percent of the common stock of Acquiring. The stock of Acquiring is Target's primary asset.

Proposed Transaction

For what are represented to be valid business purposes, Target and Acquiring will engage in the following transaction (the "Proposed Transaction"):

- (i) Target will sell a portion of its assets other than its Acquiring shares. Target will use the sales proceeds to purchase additional shares of Acquiring common stock and may also engage in margin borrowing to purchase additional shares of Acquiring common stock.
- (ii) Target will transfer any remaining assets other than its Acquiring shares to one or more newly formed limited liability companies or newly formed corporations (the "Subsidiaries"), the membership interests or shares of which will be distributed to Shareholders pursuant to the plan of reorganization.
- (iii) Target will transfer all of its Acquiring shares (the "Old Acquiring Shares") to Acquiring in exchange for a number of newly issued or treasury Acquiring common shares (the "New Acquiring Shares") on the date of the exchange (the "Exchange"). The number of New Acquiring Shares which will be transferred to Target in exchange for the Old Acquiring Shares held by Target at closing will be equal to the total, rounded down to the nearest whole share, of: (A) c% of the number of Old Acquiring Shares minus (B) that many shares equal to (1) d divided by (2) the average of the Market Value Per Share of Acquiring common stock on the ten trading days immediately preceding the trading day which is two trading days prior to closing. In connection with the Exchange, Acquiring will not assume any

Target liabilities or receive any Target assets which are subject to liabilities.

- (iv) Within e months of Step (iii) above, Target will distribute to the Shareholders on a pro rata basis the New Acquiring Shares and its ownership interests in the Subsidiaries. Target will then initiate the dissolution process. (Steps (ii) – (iv), collectively, the “Downstream Reorganization”).

Representations

The following representations have been made regarding the Proposed Transaction:

(a) The fair market value of the New Acquiring Shares received by each Target Shareholder will approximately equal the fair market value of the Target stock surrendered therefor by such Shareholder in the exchange.

(b) During the five-year period ending on the closing date of the Downstream Reorganization: (a) neither Acquiring nor any person “related” (as defined in § 1.368-1(e)(3)) to Acquiring has acquired Target shares with consideration other than Acquiring shares; (b) neither Target nor any person “related” (as defined in § 1.368-1(e)(3) without regard to § 1.368-1(e)(3)(i)(A)) to Target will have acquired Target shares with consideration other than Acquiring shares or Target shares; and (c) no distribution will have been made with respect to the stock of Target, other than ordinary, normal, regular dividend distributions made pursuant to the historic dividend paying practice of Target, either directly or through any transaction, agreement or arrangement with any other person.

(c) At least 40% of the proprietary interest in Target will be exchanged for Acquiring common stock and will be preserved (within the meaning of § 1.368-1(e)(1)(i)).

(d) Acquiring has no plan or intention to reacquire, directly or through a related person (within the meaning of § 1.368-1(e)(3)), any of the New Acquiring Shares issued in the Proposed Transaction.

(e) Acquiring will acquire at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets held by Target immediately before the Proposed Transaction. For this representation, amounts paid by Target to dissenters (if any), amounts used by Target to pay its reorganization expenses, amounts paid by Target to shareholders who receive cash or other property, amounts paid by Target to Acquiring for Acquiring’s expenses incurred in the Proposed Transaction, and all redemptions and distributions (except for regular, normal dividends)

made by Target immediately before the transfer will be included as assets of Target held immediately before the Proposed Transaction.

(f) Acquiring has no plan or intention to sell or otherwise dispose of any of the assets of Target acquired in the Proposed Transaction.

(g) Target will distribute the stock, securities, and other property it receives in the Exchange, and its other properties, in pursuance of the plan of reorganization.

(h) There are no liabilities of Target that will be assumed (within the meaning of § 357(d)) by Acquiring nor are there any liabilities to which the assets transferred by Target to Acquiring will be subject.

(i) Following the Proposed Transaction, Acquiring will continue the historic business of Target or use a significant portion of Target's historic business assets received in the Proposed Transaction in a business.

(j) Acquiring, Target and the Shareholders of Target will pay their respective expenses incurred in connection with the Proposed Transaction.

(k) There is no intercorporate indebtedness existing between Acquiring and Target.

(l) No two parties to the Proposed Transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(m) Acquiring does not own, directly or indirectly, nor has it owned during the past five years, directly or indirectly, any stock of Target.

(n) Target is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

(o) The non-issuance of fractional shares of Acquiring stock to Target in the Exchange is solely for the purpose of avoiding the expense and inconvenience to Acquiring of issuing fractional shares, and any cash paid by Acquiring to Target pursuant to the Reorganization Agreement in lieu of issuing such fractional shares is not separately bargained for consideration.

Rulings

Based solely on the information submitted and the representations made, we rule as follows regarding the Proposed Transaction:

(1) The Downstream Reorganization will qualify as a reorganization within the meaning of § 368(a)(1)(C). Acquiring and Target will each be a “party to a reorganization” within the meaning of § 368(b).

(2) Target will recognize no gain or loss on the transfer of its Old Acquiring Shares to Acquiring solely for New Acquiring Shares in the Exchange (§ 361(a)).

(3) Target will recognize no gain or loss on its distribution of the New Acquiring Shares to its Shareholders (§ 361(c)(1)). Target will recognize gain on the distribution of the membership interests or shares of Subsidiaries and other appreciated property, if any, to the Shareholders as if such property had been sold by Target at its fair market value (§ 361(c)(2)).

(4) Acquiring will recognize no gain or loss on its receipt of the Old Acquiring Shares solely in exchange for the New Acquiring Shares in the Exchange (§ 1032(a)).

(5) Gain will not be recognized by the Shareholders on the exchange of Target shares for New Acquiring Shares except to the extent cash or other property (other than the New Acquiring Shares) is received by the Shareholders in the Downstream Reorganization. The amount of such gain (if any) shall not exceed the aggregate amount of cash and the fair market value of other property received in the exchange (other than New Acquiring Shares) (§ 356(a)(1)). If the exchange has the effect of the distribution of a dividend (determined with the application of § 318(a)), then the amount of the gain recognized that is not in excess of the Target Shareholders’ ratable share of undistributed earnings and profits of Target will be treated as a dividend (§ 356(a)(2)). The remainder, if any, of the gain recognized will be treated as gain from the sale or exchange of property (§ 1001). No loss will be recognized on the exchange (§ 356(c)).

(6) Shareholders’ basis in the New Acquiring Shares will equal the basis of the Target shares surrendered in the exchange, decreased by the amount of any money and the fair market value of any other property received by the Shareholders, and increased by the amount, if any, which was treated as a dividend and the amount, if any, of gain (not including any portion of such gain which was treated as a dividend) to the Shareholders which was recognized in the exchange (§ 358(a)(1)).

(7) Shareholders’ holding period in the New Acquiring Shares received in the Proposed Transaction will include the period during which the stock of Target surrendered in exchange therefor was held, provided that the Target stock is held as a capital asset by the Shareholders on the date of the exchange (§ 1223(1)).

(8) Under § 381(a) and § 1.381(a)-1, the taxable year of Target will end on the effective date of the closing of the Downstream Reorganization, and Acquiring will succeed to and take into account the items of Target described in § 381(c), subject to

the provisions and limitations of §§ 381, 382, 383, and 384, and the regulations thereunder.

Caveats

No opinion is expressed about the tax treatment of the Proposed Transaction under any other provisions of the Code and regulations, or the tax treatment of any condition existing at the time of, or effect resulting from, the Proposed Transaction that is not specifically covered by the above rulings. In particular, no opinion is expressed regarding the federal income tax consequences of Step (i), the transfer of any remaining assets to Subsidiaries in Step (ii), or the distribution by Target of any remaining assets to its Shareholders in Step (iv).

Procedural Statements

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent. A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter ruling.

In accordance with a power of attorney on file in this office, a copy of this ruling letter is being sent to your authorized representative.

Sincerely,

Richard K. Passales

Richard K. Passales
Senior Counsel, Branch 4
Office of Associate Chief Counsel
(Corporate)